

REMARKS

Dependent claims 3-4 and 9 have been cancelled, and the substance of the cancelled claims has been introduced into independent claim 1. New claim 10 depends from claim 1, as revised.

Also, new independent claim 11 has been proposed for consideration. Claim 12 depends from claim 11. In summary, claims 1, 2, 6-8, and 10-12 are presented for consideration.

In clauses (2) and (13) of the Office Action of May 22, 2009, the Examiner indicated that claim 9 contained allowable subject matter, and would be allowed, if rewritten in independent form including all of the limitations of the base claim (independent claim 1) and any intervening claims (dependent claim 3). Claim 1 has been rewritten to include the limitations of claim 3 (i.e., first arm member, second arm member, and intermediate body), and the limitations of claim 9 (i.e., band member joining first and second arm members). Claim 1, as amended, is thus patentable in content.

Claims 2 and 6-8 depend from independent claim 1, and further limit same. Newly added claim 10 points out that the door stay assumes the form of a toy, particularly a plush toy. Claims 1, 2 and 6-8, as amended, and new claims 10-12, are patentable in content, and distinguish, with particularity, over the citations to U.S. Patent No. 5,288,257, Zacherl, and U.S. Patent No. 5,291,631, Schjoneman.

Zacherl discloses a door stop, 10, having an elongated flexible body 23 having a central body rod 17; forward and rearward pairs of appendages 14 depend below the body. Suction cups 16 are secured to the lower ends of the appendages. The door stop is positioned on the upper edge of door D, for contact with the door jamb as the door is pivoted toward the closed position.

Schjoneman discloses a flexible rubber-like member 10 in the shape of a flat "dumbbell" having holes, or openings, 18, 20 at either enlarged end, for fitment about the opposed knobs or handles of a door. Central web 16 is thin and flat, and is formed of a resilient rubber.

However, Zacherl and Schjoneman, taken singly, or in any combination suggested by the cited patents, do not anticipate, or render obvious, the essence of applicant's invention, as expressed in claims 1, 2, 6-8, and 10-12. The disclosures of Kronmiller and Flegel have been inspected, but are deemed to be of only general interest.

Applicant has introduced a door stay, constructed in accordance with the principles of the invention into the marketplace in the United States. The door stay assumes for form of a plush toy, with bear-like features, and is sold under the mark, A-DOOR A BEAR. Such door stay, however, does not rely upon a band to form the first and second arms together, while the stuffed

body of the bear precludes the door from closing to a point at which the door is contained within the door frame.

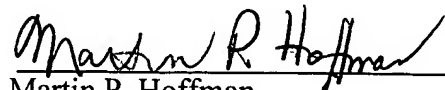
The first and second arms of applicant's door stay are retained in position by openings, in the first and second arms, which are elasticized so that the openings can be enlarged to fit over the door knob on each side of the door; note page 9, lines 7-11, and FIGS. 8-10. The openings were noted in dependent claims 4 and 5, and were rejected in the Office Action of May 11, 2009.

The substance of claims 4 and 5 has been incorporated into newly presented independent claim 11. Claim 11 positively recites that the door stay assumes the form of a toy with a first arm, a second arm, and a body intermediate said arms, and possessing sufficient thickness to preclude the door from being contained within the door frame. Claim 11 stresses that an opening is formed in each arm, and that the openings are elasticized so that they may be enlarged, and slipped over, the door knob on opposite sides of the door. The door stay is positively retained in an operative position, and maintains the door ajar, but not closed.

The structural relationships, and operating advantages, set forth in independent claim 11, and dependent claim 12, are neither anticipated by, or even suggested by, the disclosures of Zacherl and Schjorneman.

Manifestly, claims 1, 2, 6-8 and 10-12 are patentable. However, if attorney for applicant has overlooked some issue raised by the Examiner, or if the Examiner believes that prosecution may be materially advanced by a telephone conference, or a personal interview, he is invited to contact the undersigned attorney at 703.415.0100. A sample of applicant's door stay is available for inspection, and consideration, by the Examiner, at the proposed interview.

Respectfully submitted,


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